FILED

97-299 AUG 18 1997

OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

October Term, 1996

KING OSBORNE,

Petitioner,

vs.

SEMINOLE COUNTY,

Respondent.

Petition For Writ Of Certiorari
To United States Court Of Appeals
For The Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

KING OSBORNE
2332 Red Ember Rd.
Oviedo, Florida 32765
(407) 977-1649
Pro Se

August 1997

32 pp

QUESTIONS PRESENTED

Are the lower courts providing an "effective remedy" for me and three underdog minorities via PARALLEL protections in domestic law and procedures, as U.S.A. has promised in at least three human rights TREATIES, so that International historians will be able to praise U.S.A. wisdom and leadership related to (a) human rights and (b) combined wisdom of all countries in the U. N. Human Rights "last resort" clause?

LIST OF PARTIES

The parties are those listed in caption plus underdog Minorities A, B, C described herein.

TABLE OF CONTENTS

Page

Question Presented i

List of Parties ii

Table of Contents iii

Table of Authorities iv

Opinions Below 1

Jurisdiction 1

Statutes Involved 2

Statement of the Case 4

Reason for Granting the Writ 7

Conclusions 11

Appendix

Decisions: Court of Appeal & District .....App. 1

Example of Million dollar fines for minor code violations .....App. 7

Example of Cruel fines to stop appeals (my case) .....App. 9

July 1994 U.S.A. Report related to one Human Rights Treaty .....App. 11

Letter to me from U.N. showing Treaties are real, not just theory .....App. 12

Example State Court decisions showing lack of explanations .....App. 14

Jones v. Seminole County, 670 So. 2d 95 (Fla. 5th DCA 1996) .....App. 16

TABLE OF AUTHORITIES

Page

CASES

Jones v. Seminole County, 670 So. 2d 95 (Fla. 5th DCA 1996) 11

Thigpen v. Roberts, 468 U.S. 27, 82 L. Ed. 2d 23 (1984) 7

Zinermon v. Burch, 494 U.S. 124, 108 L. Ed. 2d 113 (1990) 3

STATUTES AND OTHER

28 USC 1254(1) Review Court of Appeal 1

28 USC 1257(a) Review State Court of last resort 2

28 USC 1651 all writs act 1

International Human Rights Treaties 2, 3

23 U.S. Supreme Court cites in Record 4

PETITION FOR WRIT OF CERTIORARI

I respectfully petition for writ of certiorari to review the decision of United States Court of Appeals for Eleventh Circuit entered on July 1, 1997, rehearing denied on August 6, 1997; and also to review previous State court decisions in my grievance.

OPINIONS BELOW

The decisions of Court of Appeal and District Court are reprinted in App. 1-5.

The decisions of State Courts will be in the Appendix of the Brief on the Merits. The State court decisions provided me no guidance or explanations, and were perhaps unfair considering my efforts. Example in App. 14-15.

JURISDICTION

28 USC 1254(1) Review Court of Appeal (Federal). Federal Court of Appeals made a final adverse decision on August 6, 1997.

28 USC 1651 (all writs act including common-law-certiorari, mandamus, prohibition, etc.).

28 USC 1257(a) Review last resort State Court. State Supreme Court denied my mandamus/prohibition petition directed toward State District Court on 3/7/95. I filed pleadings with U.S. Supreme Court within 90 days of above date, indicating my intention to seek help from lower Federal Court before presenting my petition to U.S. Supreme Court. Since your time is very limited, I did not want to bother you if there was a remedy somewhere in lower courts.

Starting at local State Circuit, I pled that there were Federal (including Treaty) issues in my grievance and I would seek both a State and Federal review of my grievance. *I took my one free voluntary dismissal in State Court, so that I could preserve the important issues for Federal Courts.* I took only one issue through State Court. It appeared to me that State Court was effectively requiring me to exhaust administrative remedies before proceeding in Court and I wanted to try to challenge that.

STATUTES INVOLVED

International Treaties:

International Covenant on Civil and Political Rights – including United States first report to United Nations Human Rights dated July 1994, published after September 1994, abbreviated "U. N. Human Rights" hereafter. App. 11.

Article 2. " . . . shall have an effective remedy, . . . "

International Convention Against Torture [Emotional] and Other Cruel, Inhuman or Degrading Treatment or Punishment approved by U. S. Senate in 1990s, abbreviated "Cruel or Degrading Treaty" hereafter.

U.S.A. Senate noted that treaty includes "mental pain and suffering."

Organization of American States "Basic Documents Pertaining to Human Rights in the Inter-American System" abbreviated "OAS Human Rights" hereafter.

Article XVIII. " . . . There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority . . . "

Above documents are too long to reproduce here. Copies are available upon request.

Domestic Laws:

Florida Code Board Statute 162 that provides for cruel MILLION dollar fines via layman Boards, for minor local code violations, to stop citizens from appealing local government decisions. See App. 7.

Various Florida Statutes (including Statute 768.28) that do not adequately provide for Attorney fees or waiver of Sovereign Immunity.

Article V Florida Constitution that does not provide underdog citizen with privilege to request a tenured state judge.

Federal RICO, Hobbs, Civil rights, U.S.A. constitution, Three facets of due process as explained in Zinermon v. Burch, 494 U.S. 124-126, 108 L. Ed. 2d 113 (1990).

STATEMENT OF THE CASE

As a citizen, I was concerned that Seminole County local government was out of control, especially with their temporary permitting of mobile-home homesteads. Term "mobile" in mobile-home is *extremely prejudicial*, because mobile-homes are not mobile as you all have concluded in one of your decisions, which I cited in the record.

Therefore, in December 1992, I decided to try to challenge several actions and omissions of Seminole County. I knew our Courts had the authority to resolve active controversies, which I prefer to label as "remedy unfairness in specific situations." I carefully selected over 23 U.S. Supreme Court cites to support my arguments, plus a multitude of lower Court decisions in my State and Federal pleadings. I documented that International Human Rights Treaties are real, not just theory, via my filing of early petitions to two international commissions, and getting replies that are in the record. One is in App. 12-13.

I researched three cases of Seminole County million dollar fines, and found the code violations were minor, and not a threat to public safety or health. See App. 7.

The three minorities in my grievance are: Minority Group A: Citizens abused under Florida Code Board Statute 162 that provides no-effective-remedy for underdog citizens (See App. 7-10); Minority Group B: Mobile-home owners in Seminole County that are emotionally harassed until they give up and lose their homestead. Minority Group C: Pro-se citizens who cannot afford to hire equivalent of County's very dedicated team.

I took one issue through the State Court system and filed a pleading with U.S. Supreme Court within 90 days, indicating plans to continue my case in lower Federal Courts before filing a petition with U.S. Supreme Court.

Federal Court would not provide me a hearing. In a short hearing, Federal Court could evaluate my credibility, *and quickly determine Seminole County unfairness.* I requested hearings throughout my pleadings; for example, R1-5, R1-6, R1-7, R1-9, R1-22-3, and R1-26, but none were granted. I requested oral arguments but none were granted.

District Court did not discuss any of my carefully selected 23 U.S. Supreme Court cites or Treaty issues. I had less than 7 days to file my amended complaint. District Court's "Order to Show Cause" was inconsistent with final dismissal. District Court made a conclusionary decision that my case was inadequate, and that conclusion decision, without discussion, could have been made without understanding my case. Date of filing of initial complaint was 1995, not 1996.

If the District Court had shown a sincere interest in understanding my grievance by providing a hearing, then the County would have been receptive to settlement. Instead *I was left to face County's adversary internal processes, ALL ALONE.*

District Court would not help me resolve my grievance, by referring my case to mediation or arbitration.

Court of Appeals affirmed District Court citing the Rooker-Feldman doctrine, which indicates they did not understand what had happened in State proceedings. If

they had granted oral arguments, or instructed District Court to hold a hearing, this misunderstanding could have been avoided. *My case in Federal Court was a new cause of action, because I had used my one free voluntary dismissal in State Court, to preserve the important issues for Federal Court adjudication.*

Federal Court of Appeals paragraph decision may be misleading to some readers, because "I did not place a mobile-home on my property without a permit."

As for State Court, the first appellate level of state court did not make any decision on any issue or aspect of my grievance: Two cases were opened and they dismissed the one that they had jurisdiction to decide for non-payment of a $250 fee; and dismissed the other (where the fee was credited) for lack of jurisdiction. No judge signed the orders, just the clerk's office. My attempts to correct the problem were denied, and they kept the $250 fee.

Considering the substantial effort I have in my grievance, both State and Federal Courts could have summarized their perception of my grievance, even if they felt it was without merit. They write lengthy decisions for those that can afford to hire an attorney.

Our Courts have left me ALL ALONE to face the County's internal adversary system, where they have a tendency to try to discredit grievants, directly or indirectly, one way or another. A layman board has levied a very cruel fine against me, during my good-faith appeal. My case is very important because the average mobile-home owner cannot afford to disagree with Seminole

County. I predict that more than one family will lose their homestead if I lose this case.

County's internal vindictive actions toward grievants who file suits or appeals, are perhaps unconstitutional as in Thigpen v. Roberts, 468 U.S. 27-33 (1984). See App. 9-10.

I understand that pro se pleadings require additional effort, but the minorities in my grievance cannot afford the equivalent of County's dedicated team of attorneys, and State law does not adequately provide for attorney fees and waiver of sovereign immunity. Written decisions are helpful, because summarizing a pro se grievance serves as a check-and-balance to assure that a court decision is based on understanding, not miscommunication.

REASONS FOR GRANTING THE WRIT

Based on recent Treaties, Reports, and Senate Evaluations, I do not believe United States of America wants the following issues in my grievance to be lost in inadequate procedures to resolve human rights grievances: (a) penalizing me for government mistakes, rather than "grandfathering" my existing uses, (b) creation of misleading public records to smear my integrity, (c) loss of precious HOMESTEADS via zoning that makes no logical sense, (d) layman local Boards issuing million-dollar fines, (e) an atmosphere that causes real fear of indirect retaliation, (f) issuing cruel fines during my appeals, to stop me from appealing, (g) recording a cruel fine in the public records before my case was dismissed, (h) use of cruel fines as a source of operating revenue, and (i)

existence of Minorities A, B, and C that clearly have "no effective remedy" within our current system.

I will address any or all these issues in the Brief on the Merits. You can reinstate my case in the District Court and direct that any or all of these issues be evaluated more carefully via a hearing, mediation, arbitration, or other.

Two example annotated exhibits from the record are enclosed on App. 7-10 to try to convince you that there is a problem that needs attention now.

My case provides an opportunity for the Court to provide guidance for lower courts related to human rights, in up to five ways: (1) effective remedies for human rights grievances such as protection of homesteads, (2) a positive non-adversary process where possible, (3) adequate appreciation, recognition, and security for judges that make human rights decisions for underdogs, (4) guidance for pro se citizens, so they do not waste time on the impossible, and (5) cruel fines against minorities should not be viewed as an indirect source of revenue to fund County operations.

(1) Effective Remedies: Because accumulated bitterness in our high-tech, interconnected world can cause big negatives for many innocent citizens, directly and indirectly, it is important to improve respect for law-and-order, by providing common sense remedies for laws (local codes, etc.), that make no logical sense when applied to "SPECIFIC situations." There needs to be a remedy for nonsense zoning, such as the nonsense of Seminole County temporary permitting of mobile-home

homesteads, followed by forced removal or a million dollar fine and loss of property.

Years ago, the combined wisdom of many countries via the United Nations and Organization of American States recognized the critical need to protect human rights and avoid a "last resort" to rebellions, terrorism, vandalism, disrespect for law, and disrespect for the establishment. Why wait for negative actions in our high-tech, interconnected world, to motivate an improvement in human rights protection? Details are available if this appears unimportant.

(2) Positive process: We need a positive approach to some grievances, such as immediate referral to mediation or arbitration or a hearing before a magistrate.

In public schools, colleges, and universities, we teach the equivalent of mediation and arbitration to solve grievances, and thus citizens are not prepared to function in or have respect for an adversary process, such as that used by Seminole County. Continued use of a negative adversary process is dangerous in our interconnected, high-tech world.

(3) Appreciation of Judges: Our Courts are very special. They are the most important branch of our government, because Judges have the important authority to remedy unfairness in "SPECIFIC situations", caused by individuals, groups, government entities, and human nature.

It is sad that in Florida, State judges risk losing their job or being faced with financing expensive reelection campaigns if they make a decision for an underdog.

There is inadequate appreciation for our Florida judges (state or federal) related to providing justice for the three minorities in my case. On the contrary, the judge may be unfairly criticized by the press, colleagues, attorneys, the establishment, government entities, and/or politicians.

We need to gradually find a way to implement a policy so Judges – that make the tough decisions related to human rights of underdogs – are recognized, appreciated, and given a special measure of security.

(4) Pro se: If the lower courts had held substantive hearings on the substance of my grievance, and then provided me with an oral or written explanation, showing that they understood my grievance by summarizing my concerns, and then stating that my concerns had no merit because of reasons 1, 2, 3, . . . , then I could have proceeded on with my life in a normal manner. Until the Florida system adequately provides for attorney fees, there will be a need for lower courts to handle pro se grievances effectively.

(5) Cruel Code Board fines against minorities can be viewed as an indirect source of operating revenue for Seminole County. Seminole County can turn some or all their Code Board liens into cash at any time.

No government entity is going to voluntarily give up use of Code Boards liens as a reserve source of revenue, that can be turned into cash from time to time.

Because Florida State law does not adequately provide for attorney fees and waiver of sovereign immunity, underdogs always lose in Florida. There will be little

respect for human rights in Seminole County until the limits are raised. The damages caused by actions and omissions of Seminole County government should be paid by all the citizens. At this time, underdog minorities pay the entire cost. *It makes no sense that layman Code Boards can issue million dollar fines, yet the State only waives sovereign immunity up to one hundred thousand dollars, and only a small portion of that can be used for attorney fees.*

Mike Jones, himself, in Jones v. Seminole County, 670 So. 2d 95 (Fla. 5th DCA 1996) made a good faith attempt to get the Code Board declared unconstitutional, but State Court declined. See App. 16-17. I would have asked Mike Jones to serve as attorney for my case but there are inadequate awards for attorney fees in Florida.

Since the issues in my case are so very important, I have no objection to appointment of counsel for the Brief on the Merits. Also, please indicate on which issues you would like me to focus, in the brief on the merits.

CONCLUSIONS

My case is important, because the average mobile-home owner cannot afford to disagree with Seminole County. I predict more than one family will lose their homestead if I lose this case. Until there are adequate awards for attorney fees in Florida, there is a need for lower courts to handle pro se cases fairly and effectively. Please review my grievance, reinstate my case, and provide suggestions to lower courts related to providing

guidance for pro se and related to protecting human rights, covered in recent Treaties.

Respectfully submitted,

KING OSBORNE
2332 Red Ember Rd.
Oviedo, Florida 32765
(407) 977-1649
Pro Se

August 1997

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 96-3533
Non-Argument Calendar

D. C. Docket No. 95-298-CIV-ORL-19

KING OSBORNE,

Plaintiff-Appellant,

versus

SEMINOLE COUNTY,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

(July 1, 1997)

Before TJOFLAT, EDMONDSON and COX, Circuit Judges.

PER CURIAM:

King Osborne appeals the dismissal of his *pro se* civil action alleging various violations of his civil, constitutional, and human rights: the controversy stems from the County's enforcement of a zoning restriction prohibiting the placement of mobile homes on his property without a permit; the County "forced" him to attend a public hearing and apparently reached a decision adverse to his

interest. Because the district court properly dismissed the action for lack of subject-matter jurisdiction, we – considering among other things the *Rooker-Feldman* doctrine – affirm.

AFFIRMED.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

KING OSBORNE,

Plaintiff,

v.

SEMINOLE COUNTY

Defendant.

CASE NO. 95-298-CIV-ORL-19

ORDER

(Filed Oct. 10, 1996)

This cause came before the Court on Defendant Seminole County's Motion to Dismiss Amended Complaint for Failure to State a Claim Upon Which Relief may be Granted (Doc. No. 20, filed July 5, 1996), Defendant's Memorandum of Law in Support of Motion to Dismiss (Doc. No. 21), and Plaintiff's Response to Defendant's Motion to Dismiss (Doc. No. 22, filed July 15, 1996).

BACKGROUND

Plaintiff, proceeding *pro se*, filed his initial Complaint in this action on March 24, 1996 [sic]. After denying Plaintiff's Motion for Injunction (Doc. No. 8), this Court entered an Order dismissing Plaintiff's claim for failure to state a claim (Doc. No. 18). Since Plaintiff is *pro se*, this Court provided Plaintiff an opportunity to amend his Complaint in order to state a claim upon which relief may be granted. On June 24, 1996 Plaintiff filed an Amended

Complaint (Doc. No. 19), and Defendant has moved to dismiss this complaint for failure to state a claim.

LEGAL ANALYSIS

As this Court stated in its previous Order dismissing Plaintiff's Complaint, for purposes of a Motion to Dismiss, this Court must view the allegations of the complaint in the light most favorable to the plaintiff, consider the allegations of the complaint as true, and accept all reasonable inferences therefrom. *Jackson v. Okaloosa County, Florida*, 21 F.3d 1532, 1534 (11th Cir. 1994); *Scheuer v. Rhodes*, 94 S. Ct. 1683, 1686 (1974). Furthermore, this Court must limit its consideration to the pleadings and written instruments attached as exhibits thereto. *See* Fed. R. Civ. P. 10(c); *GSW, Inc. v. Long County, Ga.*, 999 F.2d 1508, 1510 (11th Cir. 1993). A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the Plaintiff can prove no set of facts that would entitle him to relief. *Conley v. Gibson*, 78 S. Ct. 99, 101-102 (1957); *Hunnings v. Texaco, Inc.*, 29 F.3d 1480, 1483 (11th Cir. 1994). In addition, pleadings drafted by a *pro se* litigant are held to less stringent standards than formal pleadings drafted by lawyers. *Sammons v. Taylor*, 967 F.2d 1533, 1538 (11th Cir. 1992) (citing *Haines v. Kerner*, 92 S. Ct. 594, 596 (1972)).

Plaintiff's Amended Complaint goes no further towards stating a claim than his initial Complaint. Unlike

Plaintiff's initial Complaint, Plaintiff's Amended Complaint fails to state the grounds for this Court's jurisdiction.[1] Plaintiff alleges that since mobile homes are built to federal standards and are part of interstate commerce this Court has jurisdiction over this action. However, this is an insufficient justification for invoking federal jurisdiction. Further, Plaintiff has failed to state any sufficient claim for which relief may be granted.

This Court has elected to proceed with an abundance of caution since this action was filed by a *pro se* litigant. However, after reviewing both of Plaintiff's complaints, it appears that Plaintiff is unable to state any set of facts which show either jurisdiction in this Court for this case or a cognizable claim. Therefore, Defendant's Motion to Dismiss Plaintiff's Amended Complaint (Doc. No. 20) is **GRANTED**. This action is **DISMISSED** without leave to amend, and the clerk is ordered to close this case.

DONE AND ORDERED at Orlando, Florida, this 10th day October, 1996.

---

[1] Defendant argues in its Motion to Dismiss that Plaintiff has failed to state any grounds upon which the Court's jurisdiction may be invoked under 42 U.S.C. §§ 1983 and 1985, and that Plaintiff has no standing to sue under 18 U.S.C. §§ 241 and 242. However, Plaintiff's Amended Complaint does not mention these statutes, which were cited in Plaintiff's original Complaint.

/s/ Patricia C. Fawsett
PATRICIA C. FAWSETT
UNITED STATES
DISTRICT JUDGE

Copies to:
All Counsel of Record.

* * *

1. No. County staff makes no recommendation to the Code Enforcement Board (CEB) in such matters.

2. No. County staff made no recommendation to the CEB and the CEB made no request for recommendation.

3. The total fine accumulated against Sobotka is ONE MILLION FORTY-NINE THOUSAND TWO HUNDRED FIFTY AND 00/100 DOLLARS *($1,049,250.00)*, however this matter was settled December 22, 1992. See, General Release attached hereto as Exhibit "A" for details.

4. (a) Wilkerson CA91-2535.

(1) See, Answer to Interrogatory 2.

(2) On or about October 29, 1991, a lien in the amount of SEVENTY-EIGHT THOUSAND ONE HUNDRED FIFTY AND NO/100 DOLLARS ($78,150.00) (for accrued fines) was recorded. The CEB Order provided for a *continuation* of the per diem fine ($250.00/day) for continued non-compliance. [1 Million Final??]

(b) Adriatico CA89-5049.

(1) See, Answer to Interrogatory No. 2.

(2) On or about June 18, 1990, a lien in the amount of FIFTY-FOUR THOUSAND FIVE HUNDRED AND NO/100 DOLLARS ($54,500.00) (for accrued fines) was recorded. The CEB Order provided for a *continuation* of the per diem fine ($250.00/day) for continued non-compliance. [1 Million Final??]

5. Generally No. The policy of Seminole County has been not to seek fines or use fines as a revenue source. The policy of Seminole County has been to use the CEB function as a means to attain compliance with the County's codes. Indeed, for the 1992/1993 fiscal year, the County budget only anticipates $250.00 [Misleading]

CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA

[1. Misleading Public Records to Justify almost anything.] **AGENDA** [3. Evidence Disappears?]

April 27, 1995 - 1:30 p.m.
Seminole County Services Building, Room 1028
1101 East First Street
Sanford, Florida

B. Case No. 93-48-CEB
King Osborn [sic]

Request consideration of imposing lien in the amount of $52,900.00. (529 days with a $100/day fine running.) This property is homesteaded.

Violation Charged: Mobile home on parcel of land [FALSE]
without first being approved by the Board of Adjustment for a special exception permit at 3109 Scrub Oak Tr. (District 1)

Inspector: Jerry Robertson, Current Planning

C. Case No. 93-49-CEB
King Osborn [sic]

Request consideration of imposing lien in the amount of $52,900.00. (529 days with a $100/day fine running.) and foreclosing on the property.

Violation Charged: Mobile home on parcel of land [FALSE]
without first being approved by the Board of Adjustment for a special exception permit on property at 3149 Scrub Oak Tr. (District 1)

Inspector: Jerry Robertson, Current Planning

D. Case No. 93-50-CEB King Osborn [sic]	**Request consideration of imposing lien in the amount of $52,900.00. (529 days with a $100/day fine running.) and foreclosing on the property.**

Violation Charged: Mobile home on parcel of land [FALSE] *without first being approved* by the Board of Adjustment for a special exception permit on property at 2332 Red Ember Rd. (District 1)

Inspector: Jerry Robertson, Current Planning

App. 11

[LOGO]

United States Department of State

Civil and Political Rights in the United States

****Initial* Report of the United States of America to the U.N. Human Rights Committee under the International Covenant on Civil and Political Rights**

July 1994

[LOGO]

OFFICE DES NATIONS UNIES A GENÈVE

UNITED NATIONS OFFICE AT GENEVA

CENTRE POUR LES DROITS DE L'HOMME
Télégrammes:
UNATIONS, GENEVE
Télex: 412 962 UNO CH
Téléphone: 917 1234
Téléfax: (022) 917 0123
G/SO 215/1 USA
REF. N°:
(à rappeler dans la réponse)

CENTRE FOR HUMAN RIGHTS
[LOGO]
Palais des Nations
CH-1211 GENÈVE 10

14 June 1995

Dear Mr. Osborne,

This is to acknowledge the receipt of your letter dated 26 May 1995. I have taken note of the contents and have opened up a file under your name.

I should like to inform you that there is no United Nations human rights communications procedure which would allow the United Nations to consider a case which is in the process of being heard by a court at the *national* level.

As you have stated that you have pending litigation in the state of Florida, the Centre for Human Rights cannot be of assistance to you at this time.

Accordingly, I hope you will understand that no action will be taken on your communication.

Yours sincerely,

/s/ illegible
Jakob Th. Möller
Chief, Communications Branch
Centre for Human Rights

IN THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA
FIFTH DISTRICT

KING OSBORNE,

Appellant,

v. CASE NO. 94-1929

CIRCUIT COURT, EIGHTEENTH JUDICIAL CIRCUIT, SEMINOLE COUNTY, FLORIDA,

Appellee.
_____/

DATE: November 14, 1994

BY ORDER OF THE COURT:

ORDERED that Appellee's MOTION TO DISMISS FOR LACK OF JURISDICTION, filed October 7, 1994, is granted. Accordingly, the above-styled appeal is dismissed.

I hereby certify that the foregoing is
(a true copy of) the original court order.

/s/ Frank J. Habershaw
FRANK J. HABERSHAW, CLERK

BY: _____
Deputy Clerk

(COURT SEAL)

cc: Henry M. Brown, Esq.
King Osborne
Office of the Attorney General, Tallahassee

IN THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA
FIFTH DISTRICT

KING OSBORNE,

Appellant,

v. CASE NO. 94-1929

CIRCUIT COURT, EIGHTEENTH JUDICIAL CIRCUIT, SEMINOLE COUNTY, FLORIDA,

Appellee.

_____/

DATE: December 12, 1994

BY ORDER OF THE COURT:

ORDERED that Appellant's MOTION FOR CLARIFICATION, filed November 28, 1994, is denied.

I hereby certify that the foregoing is
(a true copy of) the original court order.

/s/ Frank J. Habershaw
FRANK J. HABERSHAW, CLERK

BY: _____
Deputy Clerk

(COURT SEAL)

cc: King Osborne
Office of the Attorney General, Tallahassee
Henry Brown, Esq.

JONES v. SEMINOLE COUNTY
Cite as 670 So.2d 95 (Fla.App. 5 Dist. 1996)

MICHAEL D. JONES, P.A., Appellant,

v.

SEMINOLE COUNTY, etc., Appellee.

No. 95-1038.

District Court of Appeal of Florida,
Fifth District.

Feb. 16, 1996.

Rehearing Denied March 26, 1996.

W. SHARP, Judge.

Michael Jones, P.A., a law firm owned by Jones, appeals from a final summary judgment, which denied its application for a declaratory judgment holding that Chapter 162, Florida Statutes, violates Article V, section 1 of the Florida Constitution by establishing a "rogue" judicial system.

This proceeding had its origin when Jones rejected the Seminole County tax collector's assertion and notice that he was required to obtain and pay for an occupational license for his law business, located in that county. When he failed to do so, Jones was given notice of a hearing before the Code Enforcement Board, which was continued at his request. Following a second notice and hearing, which Jones did not attend, the Board found Jones in violation. The Board scheduled a hearing to consider imposition of fines. This hearing was not held before Jones filed his lawsuit.

The powers given by the Legislature to code enforcement boards by Chapter 162 do not appear to us as having crossed the line between "quasi-judicial" and "judicial." Such boards may impose fines for code violations but they cannot impose criminal penalties. Although boards can assert a lien against real or personal property,[1] presumably section 162.09 would be interpreted to permit the presentment of defenses prior to enforcement of any lien.[2] Further, the statute provides for the fundamental due process requirements of notice and a hearing, making of a record, and appeal, although such an appeal is not *de novo*.[3]

We are not unsympathetic to Jones' argument (based on newspaper accounts and Jones' description of hearings before other boards, which Jones cites in this case) that some boards take unbridled and arbitrary actions, and may well deserve Jones' characterization of them as "kangaroo courts." Deprivation of an individual's due process rights, as these accounts indicate may have happened, can be addressed and remedied by a court in a proper case. But this is not that case.

AFFIRMED.

PETERSON, C.J., and GRIFFIN, JJ., concur.

---

[1] § 162.09, Fla.Stat. (1993).

[2] *See State ex rel. Pittman v. Stanjeski*, 562 So.2d 673 (Fla. 1990).

[3] §§ 162.06; 162.07; 162.11, Fla.Stat. (1993).